entitled to the right to enter and excavate. *Ex parte Keppelman,* (Cal. 1914), 138 Pac. 346.

The principal case is interesting as showing the strenuous effort of the California court to extricate the municipalities of the state from the danger to which, as a result of the above-mentioned constitutional provision as interpreted by earlier decisions, they were apparently subject. In *People* v. *Stephens,* 62 Cal. 209, the court held such provision to be a direct grant from the people to the persons therein designated of the right to lay pipes in city streets for the specified purposes, without legislative permission, and free from legislative interference. The privileges of water or light companies were still further emphasized in the case of *In re Johnston,* 137 Cal. 115, 69 Pac. 973. The question there before the court was whether an ordinance of the city of Pasadena, prohibiting the laying in the city streets of pipes for gas or water without first obtaining a permit from the superintendent of streets was in violation of the constitutional provision supra. The court said, "The constitution does not authorize the municipality to require a permit as a condition upon which the pipes may be laid in its streets, and its claim of a right to require a permit includes the right to refuse one; and the right to annex one condition to the exercise of the privilege implies the right to annex others, which may at least impair, if not in fact amount to a denial of, its exercise." In the principal case the court attempts a distinction between the ordinance there in question and the ordinance construed in the Johnston case, the basis of the distinction being that the ordinance in the latter case asserted a right on the part of the municipality to grant or refuse a permit in its discretion. It is somewhat difficult to see any real difference between the cases, and the complaint of MELVIN, J., that "the opinion in that proceeding (the *Johnston* case) and the one prepared * * * in this are in conflict upon the fundamental question involved in each," seems well taken. That an ordinance which attempts to make the exercise of a constitutional or statutory right subject to the discretion of city officers puts an unwarranted limitation upon that right is of course a proposition universally conceded. *City of Atlanta* v. *Gate City Co.,* 71 Ga. 106; *Mich. Telephone Co.* v. *City of Benton Harbor,* 121 Mich. 512, 80 N. W. 386; *Hodges* v. *Telegraph Co.,* 72 Miss. 910, 18 So. 84.

MUNICIPAL CORPORATIONS—RIGHT OF TOWN CONSTABLE TO REWARD.—Plaintiff was duly elected town constable and qualified for the office, receiving compensation for his duties, though there was no evidence that it was regularly paid, or that defendant town had contracted specially to pay plaintiff any particular salary. Defendant offered a reward "to any person furnishing evidence that will convict the person or persons who" had set recent fires in the town. Plaintiff engaged in detective work, was successful in apprehending the culprit, and sued defendant for the reward. *Held,* that plaintiff could recover. *Hartley* v. *Inhabitants of Granville,* (Mass. 1913), 102 N. E. 942.

It is certainly true, as the court in the principal case remarks, "the case on its facts is rather close to the line." It is well settled that a promise

of reward to a public officer for additional compensation for services rendered in the performance of his duty cannot be enforced. The cases pronouncing the rule advance as the ground of holding, either one or the other, or both, of these reasons: First, that there is no consideration for the promise, or secondly, that to enforce it would be violative of public policy. Ample authority in Massachusetts may be found declaring the general rule. *Dunham* v. *Stockbridge,* 133 Mass. 233; *Davies* v. *Burns,* 5 Allen 349; *Brophy* v. *Marble,* 118 Mass. 548; *Pool* v. *Boston,* 5 Cush. 219. The states generally follow the rule as stated above. *Somerset Bank* v. *Edmund,* 76 O. S. 396, 81 N. E. 641, 11 L. R. A. (N. S.) 1170; *Marking* v. *Needy,* 71 Ky. (8 Bush.) 22; *Warner* v. *Grace,* 14 Minn. 487; *Ex parte Gore,* 57 Miss. 251; *Riley* v. *Grace,* 17 Ky. Law Rep. 1007, 33 S. W. 207; *Gilmore* v. *Lewis,* 12 Ohio 281; *Stamper* v. *Temple,* 25 Tenn. (6 Humph.) 113, 44 Am. Dec. 296; *Rogers* v. *McCoach,* 120 N. Y. S. 686. The rule is also recognized that a contract to pay a public officer for services rendered outside and not inconsistent with his official duty is enforceable. *Bronnenberg* v. *Coburn,* 110 Ind. 169, 11 N. E. 29; *Kinn* v. *First Nat. Bank,* 118 Wis. 537, 95 N. W. 969; *Studley* v. *Ballard,* 169 Mass. 295, 47 N. E. 1000. The court in the principal case rested its decision on the last-stated rule. It was said that "constables are not expected nor required to devote a considerable portion of their time to the work of their office," and that "the obligation is not incumbent upon the constable to give up his ordinary occupation and spend substantial time in search for evidence which may or may not lead to the detection of criminals." In *Kasling* v. *Morris,* 71 Tex. 584, 9 S. W. 739, the court reached the same conclusion on facts quite similar to those of the principal case. But in *Somerset Bank* v. *Edmund, supra,* not cited in the principal case, a different view was taken. So also in *Riley* v. *Grace,* and *Gilmore* v. *Lewis, supra,* the plaintiff, in the first case a town marshal and in the second a constable, sought out and discovered the criminal, and in both, the holding of the court was adverse to the officer's claim. Whether the principal case would be followed in all jurisdictions is, therefore, at least doubtful. A distinction has sometimes been made between the right of a public officer to take a reward from a private individual for the performance of his official duty, and his right to the reward when offered by a statute or public authority, some cases holding that in the latter situation he is entitled. *Porterfield* v. *State,* 92 Tenn. 289, 21 S. W. 519; *U. S.* v. *Matthews,* 173 U. S. 381; *McCain's Petition,* 4 Pa. Co. Ct. Rep. 9. But it cannot be said that this view has gained wide recognition. *Lees* v. *Colgan,* 120 Cal. 262, 52 Pac. 502.

MUNICIPAL CORPORATIONS—VALIDITY OF STATUTE REQUIRING PURCHASE OF WATER WORKS.—A state constitution provides that the legislature "shall not impose taxes for the purposes of any county, city, town or other municipality." The legislature passed an act requiring any city, before establishing its own water system in any neighboring town which it might annex, to purchase the property of the company then supplying the town. *Held,* that this statute was invalid, because violative of the above article of the constitution, since